

§ 838.807

5 CFR Ch. I (1–1–16 Edition)

property regardless of the effective date of the court order.

[57 FR 33574, July 29, 1992, as amended at 58 FR 3202, Jan. 8, 1993; 79 FR 46631, Aug. 8, 2014]

§ 838.807 Cost must be paid by annuity reduction.

(a) A court order awarding a former spouse survivor annuity is not a court order acceptable for processing unless it permits OPM to collect the annuity reduction required by 5 U.S.C. 8339(j)(4) or 8419 from annuity paid by OPM to a retiree. OPM will not honor a court order that provides for the retiree or former spouse to pay OPM the amount of the annuity reduction by any other means.

(b) The amount of the annuity reduction required by section 8339(j)(4) or section 8419 of title 5, United States Code, may be paid—

(1) By reduction of the former spouse's entitlement under a court order acceptable for processing that is directed at employee annuity payable to a retiree;

(2) By reduction of the employee annuity payable to a retiree; or

(3) By actuarial reduction of the former spouse survivor annuity in the event the reduction of the employee annuity is not made for any reason prior to the death of the annuitant.

(c) Unless the court order otherwise directs, OPM will collect the annuity reduction required by 5 U.S.C. 8339(j)(4) or 8419 from the employee annuity payable to a retiree.

[57 FR 33574, July 29, 1992, as amended at 79 FR 46631, Aug. 8, 2014]

Subpart I—Terminology Used in Court Orders Awarding Former Spouse Survivor Annuities

REGULATORY STRUCTURE

§ 838.901 Purpose and scope.

(a) This subpart regulates the meaning of terms necessary to award a former spouse survivor annuity in a court order, and for OPM to determine whether a court order awarding a former spouse survivor annuity is a court order acceptable for processing

and the amount of the former spouse survivor annuity.

(b)(1) This subpart establishes a uniform meaning to be used for terms and phrases frequently used in awarding a former spouse survivor annuity.

(2) This subpart informs the legal community about the definition to be applied to terms used in court orders, to permit the resulting orders to be more carefully drafted, using the proper language to accomplish the aims of the court.

(c)(1) To assist attorneys and courts in preparing court orders that OPM can honor in the manner that the court intends, appendix A of this subpart contains model language to accomplish many of the more common objectives associated with the award of a former spouse survivor annuity.

(2) By using the language in appendix A of this subpart, the court, attorneys, and parties will know that the court order will be acceptable for processing and that OPM will treat the terminology used in the court order in the manner stated in the appendix.

IDENTIFICATION OF BENEFITS

§ 838.911 Identifying the retirement system.

(a) To satisfy the requirements of § 838.804(b)(1), a court order must contain language identifying the retirement system affected. For example, “CSRS,” “FERS,” “OPM,” or “Federal Government” survivor benefits, or “survivor benefits payable based on service with the U.S. Department of Agriculture,” etc., are sufficient identification of the retirement system.

(b) Except as provided in paragraphs (b)(1) and (b)(2) of this section, language referring to benefits under another retirement system, such as military retired pay, Foreign Service retirement benefits and Central Intelligence Agency retirement benefits, does not satisfy the requirements of § 838.804(b)(1).

(1) A court order that mistakenly labels CSRS benefits as FERS benefits and vice versa satisfies the requirements of § 838.804(b)(1).

(2) Unless the court order expressly provides otherwise, for employees